

FEB 14 2003

B.C.D. 03-19

**EMPLOYEE STATUS DETERMINATION
HPC**

This is the determination of the Railroad Retirement Board concerning the status of HPC as an employee under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information submitted by Piedmont & Atlantic Railroad Company, Inc., doing business as Yadkin Valley Railroad, a covered employer under the Acts (B.A. No. 5529), indicates that HPC is Chairman and Chief Executive Officer of Piedmont. He is also listed as the Chairman and Chief Executive Officer of Yadkin Valley Railroad in the "Pocket List of Railroad Officials." However, an audit performed by an office of the Board indicates that HPC is not being reported as an employee of Piedmont or of any affiliated railroad.

Section 203.2 of the Board's regulations provides that "An individual shall be an employee whenever * * * (d) he is an officer of an employer." (20 CFR 203.2.)

In response to a request for an explanation, HPC stated that he is President and Chief Executive Officer and co-owner with his wife, LC, of Gulf & Ohio Railways Holding Co., Inc. Gulf & Ohio is a holding company which owns Piedmont and a number of other railroads. HPC states that he is a director but not an officer of Piedmont and of the other subsidiary railroads, and that Piedmont has no officer with the title "Chief Executive Officer." He states that he is not compensated by any of the railroads, and that the information to the effect that he is CEO of Piedmont was provided in error to the Board. HPC advises that the information in the Pocket List that he was CEO was "simply wrong" and points out that the current Pocket List does not list him as CEO of Piedmont. HPC stated that the officers of Piedmont are RM, President; JK, Vice President; and KC, Secretary.

HPC

Based upon the information summarized above, the Board finds that HPC is not an employee of Piedmont & Atlantic Railroad Company, Inc., doing business as Yadkin Valley Railroad.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr.

Jerome F. Kever